

In re Patent Application of:
HABERLAND ET AL.

Serial No. 09/580,721

Filing Date: May 30, 2000



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OFFICE OF PETITIONS

If any additional extension and/or fee is required,
or if any additional fee for claims is required, authorization
is given to charge Deposit Account No. 01-0484.

Respectfully submitted,

JEFFREY S. WHITTLE
Reg. No. 36,382
Allen, Dyer, Doppelt, Milbrath
& Gilchrist, P.A.
255 S. Orange Ave., Suite 1401
P. O. Box 3791
Orlando, Florida 32802
(407) 841-2330

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being
deposited with the United States Postal Service as first class
mail in an envelope addressed to: ASSISTANT COMMISSIONER FOR
PATENTS, WASHINGTON, D.C. 20231, on this 24th day of January,
2001.

Kathy L. Tissue



#3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Patent Application of:
HABERLAND ET AL.

Serial No. 09/580,721

Filing Date: MAY 30, 2000

For: TROCAR SYSTEM HAVING
SHIELDED TROCAR

Art Unit: 3735

Attorney Docket No.:
24039

PETITION UNDER 37 C.F.R. § 1.47 FOR JOINT INVENTOR
REFUSING TO JOIN IN THE APPLICATION

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

Applicants hereby petition to name Mr. Sam R. Marchand and Mr. Robert Sean Hagen as joint inventors for the patent application although they refuse to join in the patent application. Attached hereto is a statement of Mr. Gary Haberland, president of GeniCon, LC and joint inventor of the subject patent application, establishing the pertinent facts regarding the refusal of Mr. Sam R. Marchand and Mr. Robert Sean Hagen to join in the application.

Enclosed herewith is a Declaration signed by the available joint inventors with Mr. Sam R. Marchand and Mr. Robert Sean Hagen signature blocks being left empty. The Declaration is being submitted to establish that the available joint inventors make the declaration on their own behalf and on behalf of Messrs. Marchand and Hagen according to MPEP § 409.03(a).

Commissioner is hereby authorized to charge Deposit Account No. 01-0484 in the amount of \$130.00 for the Petition Fee.

01/31/2001 CVORACHA 00000152 010484 09580721

05 FC:122 130.00 CH

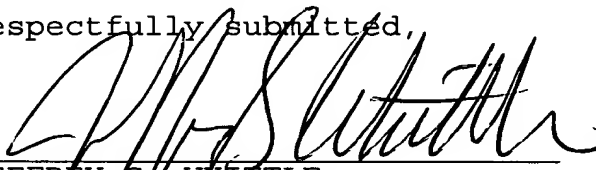
In re Patent Application of:
HABERLAND ET AL.
Serial No. 09/580,616
Filed: **May 30, 2000**



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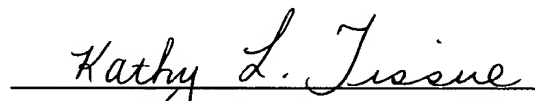
If any additional extension and/or fee is required,
or if any additional fee for claims is required, authorization
is given to charge Deposit Account No. 01-0484.

Respectfully submitted,


JEFFREY S. WHITTLE
Reg. No. 36,882
Allen, Dyer, Doppelt, Milbrath
& Gilchrist, P.A.
255 S. Orange Avenue, Suite 1401
Post Office Box 3791
Orlando, Florida 32802
407/841-2330

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being
deposited with the United States Postal Service as first class
mail in an envelope addressed to: ASSISTANT COMMISSIONER FOR
PATENTS, WASHINGTON, D.C. 20231, on this 24th day of January,
2001.


KATHY L. TISSUE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
HABERLAND ET AL.

Serial No. **09/580,721**

Filing Date: **MAY 30, 2000**

For: **TROCAR SYSTEM HAVING
SHIELDED TROCAR**

Art Unit: **379**

Attorney Docket No.:
24039



RECEIVED

FEB 01 2001

OFFICE OF PETITIONS

**STATEMENT OF FACTS SUPPORTING
PETITION UNDER 37 C.F.R. § 1.47**

Assistant Commissioner for Patents
Washington, DC 20231

I, Gary Haberland, declare as follows:

1. I am a managing member of GeniCon, LC of Orlando, Florida and one of five joint inventors for the above-referenced patent application;

2. I, as well as the other joint inventors, have assigned all of my rights in this patent to GeniCon, LC (see assignment documents at Exhibit A);

3. Joint inventors Sam R. Marchand and Robert Sean Hagen were each delivered a package via U.S. Mail containing a draft of the subject patent application and supporting documents, e.g., Declaration and Power of Attorney and Assignment documents, on August 22, 2000 (see Exhibit B);

4. Mr. Sam R. Marchand, one of the joint inventors, further received a second package delivered via UPS next day air service on January 12, 2001. This second package contained a draft of the subject patent application, as well as the supporting documents as outlined above for review and execution(see Exhibit C);

In re Patent Application of:

HABERLAND ET AL.

Serial No. **09/580,721**

Filed: **May 30, 2000**

5. I tried on several occasions to set up an appointment with Mr. Robert Sean Hagen to review the subject patent application and acquire his signature on the supporting documents. Mr. Hagen repeatedly put me off asking me to try another day or call back at a more convenient time;

6. Mr. Sam R. Marchand has a duty and obligation as joint inventor to join in the application as evidenced by the fact that he was an employee or contractor of Coalesce, Inc. ("Coalesce"). On September 15, 1998, Coalesce executed an Engineering Services Agreement with GeniCon, LC. Paragraph 6, Section (a) of the Engineering Services Agreement states *"COALESCE agrees to disclose to GENICON all ideas and inventions that directly relate to, are incorporated within and arise exclusively from COALESCE's work as described in Section 1, "SERVICES," and which are reduced to practice by COALESCE while performing work for GENICON pursuant to this agreement. COALESCE hereby assigns to GENICON all rights of COALESCE to all such ideas and inventions and all copyrights relating thereto. COALESCE further agrees to cooperate with GENICON's patent counsel in the preparation, review or amendment of any patent or other applications containing COALESCE inventions or work product."* (See Exhibit D). Sam Marchand had signed as a joint inventor on the parent design application (see copy of application, Joint Declaration, and Assignment at Exhibit E).

7. Mr. Robert Sean Hagen has a duty and obligation as joint inventor to join in the application as evidenced by the Confidentiality Agreement dated April 2, 1998 in which he also assigns his rights to GeniCon, LC (see Exhibit F).

In re Patent Application of:

HABERLAND ET AL.

Serial No. **09/580,721**

Filed: **May 30, 2000**

Paragraph 21 of the Confidentiality Agreement states "Second Party acknowledges that, as between ECE and/or GeniCon and Second Party, the Confidential Information and all related copyrights and other intellectual property rights are confidential and will be the property of ECE and/or GeniCon, even if suggestions, comments, and/or ideas made by Second Party are incorporated into the Confidential Information or related materials during the period of this Agreement. Second Party hereby Assigns all such rights he may have in ECE and or GeniCon's concepts or devices."

8. Mr. Sam R. Marchand and Mr. Robert Sean Hagen refuse to join in the patent application;

9. Records indicate that Mr. Sam R. Marchand's last known home address is:

1170 Robmar Rd.
Dunedin, FL 34698

10. Records indicate that Mr. Robert Sean Hagen's last known home address is:

413 S. Lakemont Ave.
Winter Park, FL 32792

11. I now request, as a person authorized by GeniCon, LC to sign this document and on behalf of the assignee (see Assignment Documents at Exhibit A, D, E, and F), that this application be considered and examined by the Patent Office.


12. I filed these documents to preserve the patent rights of GeniCon, LC.

In re Patent Application of:
HABERLAND ET AL.
Serial No. 09/580,721
Filed: May 30, 2000



13. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

01-24-01
Date



GARY HABERLAND

Exhibit A

1-31-92

PATENTS ONLY

Patent & Trademark Office

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Gary HaberlandSteve NilsonBennie W. Gladdish, Jr.

2. Name and address of receiving party(ies):

Name: GeniCon, LCAddress: 573 Waterscape WayOrlando, Florida 32828

Additional name(s) of conveying party(ies) attached () Yes (X) No

3. Nature of Conveyance:

(X) Assignment

() Merger

() Security Agreement

() Change of Name

() Other _____

Execution Date: 1/3/01; 1/11/01; 1/05/01 respectively

Additional name(s) and address(s) attached? () Yes (X) No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is: _____

A. Patent application No.(s)

09/580,721

B. Patent No.(s)

Additional numbers attached? () Yes (X) No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Jeffrey S. Whittle, Esq.Internal Address: P.O. Box 3791Street Address: 1401 Citrus Center255 South Orange Ave.City: OrlandoState: FloridaZip: 32802-3791

6. Total number of applications and patents involved: [1]

7. Total fee (37 CFR 3.41).....\$ 40.00

[] Enclosed

[X] Authorized to be charged to deposit account.

8. Deposit Account Number:

01-0484

If any additional extension and/or fee is required,
or, if any additional fee for claims is required

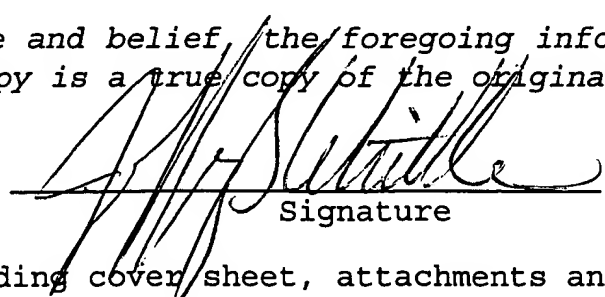
DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Jeffrey S. Whittle

Name of Person Signing


SignatureJanuary 24, 2001

Date

Total number of pages including cover sheet, attachments and document: [3]

A S S I G N M E N T

WHEREAS, Gary Haberland of Orlando, Florida; Sam R. Marchand of Dunedin, Florida; Steve Nilson of Ocala, Florida; Robert Sean Hagen of Winter Park, Florida; and Bennie W. Gladdish, Jr. of Odessa, Florida hereinafter referred to as **ASSIGNORS**, have made certain improvements or inventions in METHODS OF HANDLING AND USING A TROCAR SYSTEM, for which **ASSIGNORS** have executed an application for United States Letters Patent filed on in the United States Patent and Trademark Office on May 30, 2000 as U.S. Patent Application Serial No. 09/580,721; and

WHEREAS, **GENICON, LC**, a Florida corporation, hereinafter referred to as **ASSIGNEE**, is desirous of acquiring the same;

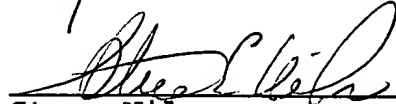
NOW THEREFORE, This Indenture Witnesseth: That for good and valuable consideration, receipt whereof is hereby acknowledged, said **ASSIGNORS** do hereby sell, assign and transfer to said **ASSIGNEE**, its successors and assigns, all right, title and interest in and to said United States Patent application, the invention or inventions therein shown and described and any improvements on said inventions heretofore or hereafter made, any divisions or continuations of said application, and all patents, United States and foreign, to be granted upon any such application or for the invention or inventions thereof, and any reissues, continuations or extensions of said patents; and said **ASSIGNORS** do hereby authorize and request the Commissioner of Patents to issue all patents on said United States Patent applications or for the invention or inventions hereof, in accordance with this assignment.

Sam R. Marchand

Notary Public
My commission expires:

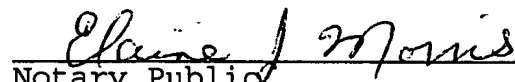
3

IN WITNESS WHEREOF, I have hereunto set my hand
and seal this 11 day of JANUARY, 2001.

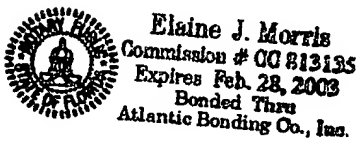

Steve Nilson

State of _____ :
: SS.
County of _____ :

On this 11 day of January, 2001, before
me personally appeared the above-named ASSIGNOR, **Steve Nilson**, to
me personally known/provided identification
(personally known) as the individual who executed
the foregoing assignment, and who acknowledged to me that he/she
executed the same of his/her own free will for the purposes
therein set forth.


Notary Public
My commission expires:

S E A L



Robert Sean Hagen

On this _____ day of _____, 2001, before me personally appeared the above-named ASSIGNOR, **Robert Sean Hagen**, to me personally known/provided identification (_____) as the individual who executed the foregoing assignment, and who acknowledged to me that he/she executed the same of his/her own free will for the purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this
5 day of JAN, 2001.

Bennie W. Gladdish, Jr.
Bennie W. Gladdish, Jr.

State of Florida :
County of Polk : ss.

On this 5 day of JAN, 2001, before
me personally appeared the above-named ASSIGNOR, **Bennie W.**

Gladdish, Jr., to me personally known/provided identification
(FDCH 643207963137) as the individual who executed
the foregoing assignment, and who acknowledged to me that he/she
executed the same of his/her own free will for the purposes
therein set forth.

S E A L



Tracy Moran
Notary Public
My commission expires:

Exhibit B

ALLEN, DYER, DOPPELT
MILBRATH & GILCHRIST, P.A.

ATTORNEYS AT LAW

1401 CITRUS CENTER
255 SOUTH ORANGE AVENUE
POST OFFICE BOX 3791
ORLANDO, FLORIDA 32802-3791

TELEPHONE 407-841-2330
FAX 407-841-2343
EMAIL jwhittle@addmg.com

August 22, 2000

HERBERT L. ALLEN
ROBERT DYER
AVA K. DOPPELT
STEPHEN D. MILBRATH
BRIAN R. GILCHRIST
CHRISTOPHER F. REGAN
JEFFREY S. WHITTLE
DAVID L. SIGALOW
RICHARD K. WARTHER
MICHAEL W. TAYLOR
ENRIQUE G. ESTÉVEZ, PH.D.
PAUL J. DITMYER
JOHN F. WOODSON, II*
TREVOR D. ARNOLD
RICHARD A. HINSON

OF COUNSEL:
CHARLES E. WANDS

PATENT AGENTS:
CARL M. NAPOLITANO, PH.D.
JACQUELINE E. HARTT, PH.D.
MARK R. MALEK

*NOT ADMITTED IN FLORIDA

Intellectual Property:
Patents, Trademarks & Copyrights

Securities Arbitration
& Litigation

Antitrust & Trade Regulation

Business Litigation

MELBOURNE OFFICE:
5240 BABCOCK STREET, NE
SUITE 211
PALM BAY, FL 32905
407-725-4760/3741
407-984-7078 FAX

Mr. Gary Haberland
GeniCon, LC
573 Waterscape Way
Orlando, FL 32828

Re: Draft Patent Application for:
Trocar System Having Shielded Trocar
Our File No.: 24100

Dear Gary:

Enclosed for your records, please find a draft of the patent application as filed for the above-referenced invention.

Also enclosed, please find the Declaration and Power of Attorney, Verified Statement Claiming Small Entity Status, and Assignment documents for your review and execution. We ask that you please return the executed documents to our office at your earliest convenience for filing with the U.S. Patent and Trademark Office.

If you should have any questions regarding the enclosed documents, please feel free to give us a call.

Best regards.

Sincerely yours,

Jeffrey S. Whittle

JSW:klt

Enclosures

cc: Mr. Steve Nilson (w/enclosures)
Mr. Sean Hagen (w/enclosures)
Mr. Sam Marchand (w/enclosures)
Mr. Bennie Gladdish (w/enclosures)

Exhibit C



"New Ideas for Modern Health Care"

RECEIVED
JAN 16 2001
A.D.D.M.&G

January 11, 2001

Sam R. Marchand
1170 Robmar Road
Dunedin Florida 34698

Sent Via UPS: 1ZW3X0332940050253

Dear Sam

Enclosed, please find (4) Patent Applications which require your notarized signature and return as soon as practical to:

Allen Dyer Doppelt Gilchrist & Milbrath
Atten: Jeffery Whittle Esq.
Suite #1401
255 South Orange Avenue
Orlando, Florida 32802
(407) 841-2330 Phone

If you have any questions relating to these documents, please direct them to Jeff Whittle as he would be best positioned to answer them to your satisfaction.

Regards,

Gary Haberland
Member Manager

Cc: Jeffery Whittle Esq.

US Office

GeniCon L.C.
573 Waterscape Way
Orlando, Florida U.S.A. 32828
Telephone: (407) 273-7619
Telefax: (407) 306-9356

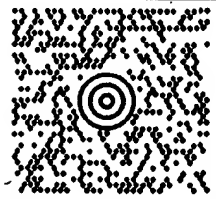
EU Office

GeniCon Europe Ltd.
44 Airedale Avenue
Chiswick, London U.K. W4 2NW
Telephone: 0044 (0) 208-742-1358
Telefax: 0044 (0) 208-742-1818

SHIPPING LTR 1 OF 1
(405) 273-1111
GENICON L.C.
573 WATERSCAPE WAY
ORLANDO FL 32828

SHIP TO:

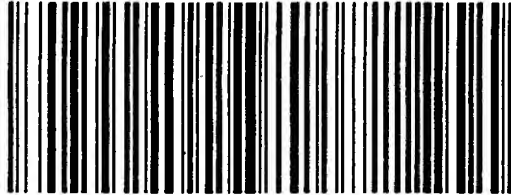
SAM MARCHAND
1170 ROBMAR ROAD
DUNEDIN FL 34698



FL 335 1-01



UPS NEXT DAY AIR SAVER **1P**
TRACKING #: 1Z W3X 033 29 4005 0253



BILLING: P/P
SIGNATURE REQUIRED

Exhibit D

ENGINEERING SERVICES AGREEMENT

THIS AGREEMENT, made as of the 15th day of September 19 98, between Coalesce, Inc., a Florida corporation having corporate offices at 11701 Belcher Road S. #123, Largo, Florida 33773 ("COALESCE") and GeniCon, LLP, having a place of business at 573 Waterscape Way, Orlando, Florida, 32828 ("GENICON").

WITNESSETH:

WHEREAS, GENICON desires to retain COALESCE to provide engineering, design and product development services on the terms and conditions hereinafter set forth, and

WHEREAS, COALESCE is agreeable to doing so,

NOW, THEREFORE, in consideration of the above premises, all of which are incorporated herein as if set forth fully below and further in consideration of the mutual undertakings hereinafter set forth, GENICON and COALESCE hereby agree as follows:

1. SERVICES: COALESCE is retained as an independent contractor to provide engineering, design and machining services for GENICON relative to the development of endoscopic medical devices ("DEVICES"). Such work shall be performed at the request of GENICON, in accordance with all terms and conditions detailed herein, and per mutually agreeable schedule of performance to be established at the time of the request.

2. TERM OF AGREEMENT: The initial term of this agreement shall commence on the date hereof and end one year from date hereof.

3. COMPENSATION: (a) GENICON shall compensate COALESCE in accordance with the design, engineering and machining rates included in the COALESCE "Schedule of Fees" dated January 1, 1997. Said schedule of fees is hereby included in this agreement. COALESCE shall commence work as mutually agreed at the time of execution of this agreement and shall submit invoices to GENICON twice each month for time and materials in accordance with the Schedule of Fees. GENICON shall pay said invoices net 30 days, subject to a late charge of 0% per month of the unpaid balance.

(b) Any proposal submitted to GENICON by COALESCE and accepted by GENICON for work outside the scope of this agreement or specifically superseding this agreement shall not be subject to this agreement and shall not negate or affect the terms and conditions of this agreement for work not specifically addressed by said proposal.

4. CANCELLATION: Either party may cancel this agreement upon thirty (30) day written notice to the other, said thirty day period to commence upon delivery of notification. Cancellation does not relieve GENICON of financial obligations to COALESCE for work performed under the terms and conditions of this agreement prior to the actual time of cancellation and including the seven day notice period.

5. CONFIDENTIALITY: COALESCE acknowledges that in performance of this agreement, it will have access to GENICON's confidential and proprietary information and

documents. COALESCE agrees to refrain at all times from disclosing such confidential information to others and from using such confidential information except for the benefit of GENICON, and from any other acts which would tend to destroy the value thereof to GENICON. Other terms and conditions, if any, relating to proprietary or confidential information may be detailed in a separate MUTUAL CONFIDENTIAL DISCLOSURE AGREEMENT executed between GENICON and COALESCE.

6. PATENT RIGHTS, TRADEMARKS AND COPYRIGHTS: (a) COALESCE agrees to disclose to GENICON all ideas and inventions that directly relate to, are incorporated within and arise exclusively from COALESCE's work as described in Section 1, "SERVICES," and which are reduced to practice by COALESCE while performing work for GENICON pursuant to this agreement. COALESCE hereby assigns to GENICON all rights of COALESCE to all such ideas and inventions and all copyrights relating thereto. COALESCE further agrees to cooperate with GENICON's patent counsel in the preparation, review or amendment of any patent or other applications containing COALESCE inventions or work product. GENICON agrees to compensate COALESCE for time/services associated with such activity according to the "Schedule of Fees" and list on patent applications filed by GENICON any employee or representative under the control of COALESCE that is deemed to be a sole or co-inventor for the application.

(b) GENICON acknowledges that COALESCE may be working on projects for others at the same time or subsequent to COALESCE's performance of services for GENICON. GENICON shall have no interest in any inventions, developments or discoveries made by COALESCE while working on projects other than GENICON's. COALESCE shall be free, except as otherwise provided herein, to dispose of COALESCE's time and to carry out such activities in such manner and to or with such persons, firms and corporations as COALESCE sees fit.

(c) GENICON shall select all trademarks and tradenames used in conjunction with the marketing of its products and such trademarks and tradenames shall be the property of GENICON.

7. INDEPENDENT CONTRACTOR: COALESCE's relationship is and shall be that of an independent contractor, and neither party is authorized to or shall act as the agent of the other except as may be covered by separate agreement.

8. WARRANTY AND LIMITATION OF REMEDIES: (a) COALESCE will use reasonable efforts to perform all services under this agreement in accordance with sound engineering practice in a good and workmanlike manner. All work performed will be in accordance with the plans and specifications provided by GENICON. COALESCE makes no other warranties, either expressed or implied, including warranties of fitness for a particular purpose or merchantability.

(b) For a period of one year after the completion of any Devices resulting from the project or projects contemplated by this agreement, COALESCE shall not perform services on a Device that functions in the manner and purpose similar to the Devices resulting from the project or projects contemplated by this agreement for a third party.

(c) In no event will COALESCE be liable for any lost profits or incidental or consequential damages even if COALESCE has been advised of the possibility of such damages or for any claim against GENICON by any other party. COALESCE's maximum liability for loss or damage resulting from COALESCE's services regardless of form of action, whether in

contract or in tort, including negligence, is limited to refund of the compensation received by COALESCE from GENICON under this agreement.

9. INDEMNITY: (a) GENICON shall comply with all applicable federal, state and local laws and regulations in the manufacture and supply of any and all products resulting from the services of COALESCE under this agreement. GENICON shall indemnify and hold harmless COALESCE from any and all loss, liability and expense arising out of the death or injury to any person or damage to property resulting from any alleged negligence or defect in the design and manufacture of such products.

(b) GENICON shall be responsible for compliance with present and future statutes, laws, ordinances and regulations of federal, state and local governments relating to the evaluating, testing, sterilizing, labeling, packaging, advertising, promotion, sale or other distribution of any and all products resulting from the services of COALESCE under this agreement and shall indemnify and hold harmless COALESCE from any liability, damage or loss arising out of this responsibility.

10. RESOLUTION OF DISPUTES: (a) Each party agrees to use its best efforts with good-faith to settle by negotiation all disputed differences or questions between them concerning the construction, interpretation and effect of this agreement.

(b) Any dispute concerning or relating to this agreement which dispute is not disposed of by mutual agreement, shall be settled according to the rules of the American Arbitration Association by three (3) arbitrators. The arbitrators shall convene in Tampa, Florida and their award shall be final and binding upon the parties.

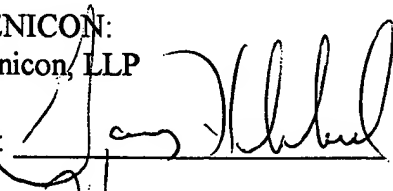
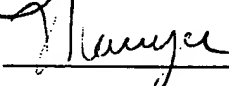
11. This Agreement shall be governed and construed in all respects in accordance with the internal laws of the State of Florida and may only be amended by agreement in writing signed by officers of GENICON and COALESCE.

12. This Agreement shall be binding upon and enure to the benefit of the respective parties and their successors.

13. Nothing contained herein shall be deemed or construed as requiring COALESCE to enter into any further agreement with GENICON.

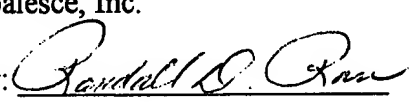
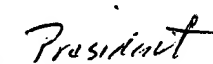
IN WITNESS WHEREOF, GENICON and COALESCE have caused this instrument to be executed in duplicate by their respective duly authorized officers both on the date and year first above written.

GENICON:
Genicon, LLP

By: 
Title: 

esc_geni.doc

COALESCE:
Coalesce, Inc.

By: 
Title: 

SCHEDULE OF FEES

Effective January 1, 1997

Engineering	\$60.00 per hour
CNC Programming	\$50.00 per hour
Machine Shop, Model Making	\$50.00 per hour
Drafting and Design Layout	\$40.00 per hour

- All outside services coordinated through Coalesce are billed at cost plus 10% to cover overhead.
- Materials are billed at cost including pro-rated shipping and taxes.
- Customer mandated travel is billed at the standard mileage rate set by the IRS. Any meals or other reasonable and customary expenses incurred during mandated travel will be billed at cost.
- Any overtime work required to meet a change in customer specifications is, upon the client's authorization to perform the work, billed at time and one-half the rates shown above.

Exhibit E

Case No. 99-P-22061

"EXPRESS MAIL" MAILING LABEL NUMBER EL36953704945

DATE OF DEPOSIT January 26, 2000

I HEREBY CERTIFY THAT THIS PAPER OR FEE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE "EXPRESS MAIL POST" OFFICE TO ADDRESSEE " SERVICE UNDER 37 C.F.R. 1.51 OF THE DATE INDICATED ABOVE AND IS ADDRESSED TO THE COMMISSIONER OF PATENTS AND TRADEMARKS, WASHINGTON, D.C. 20540.

Kathy L. Tissue
(TYPED OR PRINTED NAME OF PERSON MAILING PAPER OR FEE)
Kathy L. Tissue
(SIGNATURE OF PERSON MAILING PAPER OR FEE)

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, DC 20231

Transmitted herewith for filing is the patent application of:

Inventors: Haberland et al.

For: OBTURATOR, VALVE ASSEMBLY, AND CANNULA COMBINATION

Enclosed are:

- [X] Design Patent Application: 4 pages
- [X] 16 Sheets of drawings.
- [X] Filing Fee in the amount of \$155.00 for small entity
- [X] A verified statement to establish small entity status under 37 CFR §§1.19 and 1.27.

The Declaration is NOT ENCLOSED.

- [X] Name, Address and Citizenship of Inventor(s) is as follows:

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Citizen of United States

Sam R. Marchand
1170 Robmar Road
Dunedin, FL 32798
Citizen of United States

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Date: January 26, 2000


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**OBTURATOR, VALVE ASSEMBLY, AND CANNULA
COMBINATION**

SPECIFICATION

TO WHOM IT MAY CONCERN:

Be it known that **Gary W. Haberland**, an individual citizen of the United States of America, with an address of 573 Waterscape Way, Orlando, Florida 32828, and **Sam Marchand**, an individual citizen of the United States of America, with an address of 1170 Robmar Road, Dunedin, Florida 34698, have invented a new, original and ornamental design for an **OBTURATOR, VALVE ASSEMBLY, AND CANNULA COMBINATION**, for which the following is a specification, reference being made to the accompanying drawings forming a part hereof, in which:

Figure 1 is a perspective view of a first embodiment of the **OBTURATOR, VALVE ASSEMBLY, AND CANNULA COMBINATION** showing the design of our invention;

Figure 2 is a right side elevational view of FIG. 1;

Figure 3 is a left side elevational view of FIG. 1;

Figure 4 is a front elevational view of FIG. 1;

Figure 5 is a rear elevational view of FIG. 1;

Figure 6 is a top plan view of FIG. 1;

Figure 7 is a bottom plan view of FIG. 1;

Figure 8 is a perspective view of a **VALVE ASSEMBLY AND CANNULA COMBINATION** showing the design of our invention;

Figure 9 is a right side elevational view of FIG. 8;

Figure 10 is a left side elevational view of FIG. 8;

Figure 11 is a front elevational view of FIG. 8;

Figure 12 is a rear elevational view of FIG. 8;

Figure 13 is a top plan view of FIG. 8;

Figure 14 is a bottom plan view of FIG. 8;

Figure 15 is a perspective view of a **CANNULA** showing the design of our invention;

Figure 16 is a right side elevational view of FIG. 15;

Figure 17 is a left side elevational view of FIG. 15;

Figure 18 is a front elevational view of FIG. 15;

Figure 19 is a rear elevational view of FIG. 15;

Figure 20 is a top plan view of FIG. 15;

Figure 21 is a bottom plan view of FIG. 15;

Figure 22 is a perspective view of an **OBTURATOR HAVING A HANDLE** showing the design of our invention;

Figure 23 is a front elevational view of FIG. 22;

Figure 23A is an enlarged fragmentary elevational view of FIG. 22 having a distal end portion thereof in an extended position;

Figure 24 is a right side elevational view of FIG. 22;

Figure 25 is a rear elevational view of FIG. 22 ;

Figure 26 is a left side elevational view of FIG. 22;

Figure 27 is a top plan view of FIG. 22;

Figure 28 is a bottom plan view of FIG. 22;

Figure 29 is a perspective view of an **OBTURATOR** showing the design of our invention;

Figure 30 is a front elevational view of FIG. 29;

Figure 31 is a right side elevational view of FIG. 29;

Figure 32 is a rear elevational view of FIG. 29;

Figure 33 is a left side elevational view of FIG. 29;

Figure 34 is a top plan view of FIG. 29;

Figure 35 is a bottom plan view of FIG. 29;

Figure 36 is a perspective view of a **VALVE ASSEMBLY** showing the design of our invention;

Figure 37 is a top plan view of FIG. 36;

Figure 38 is a bottom plan view of FIG. 36;

Figure 39 is a front elevational view of FIG. 36, the rear being a mirror image thereof; and

Figure 40 is a right side elevational view of FIG. 35, the left side being a mirror image thereof.

The broken lines are for illustrative purposes only and do not form part of the claimed design.

WE CLAIM:

The ornamental design for an **OBTURATOR, VALVE ASSEMBLY, AND CANNULA COMBINATION** as shown and described.

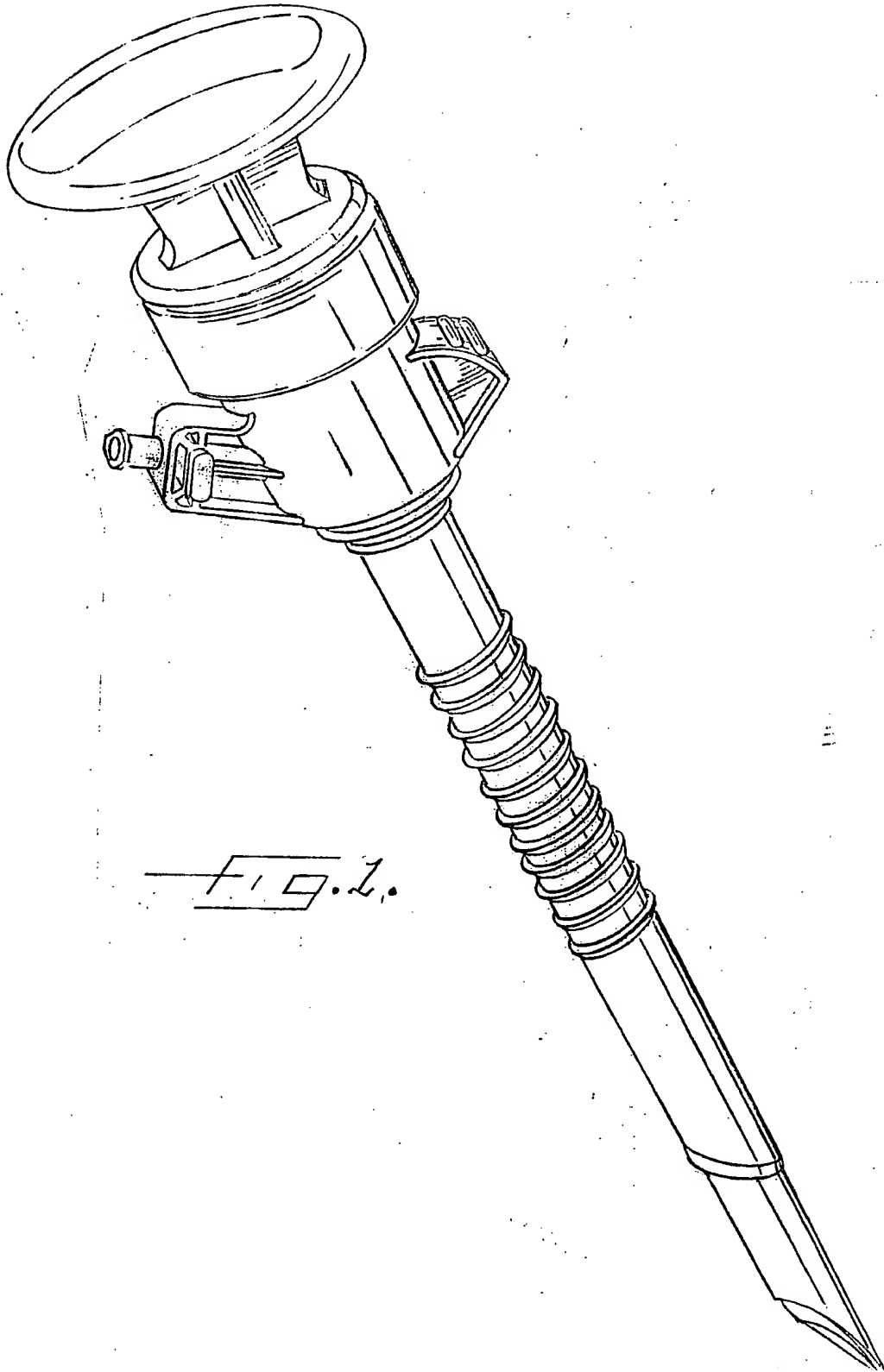
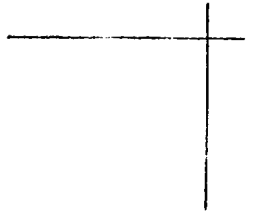


FIG. 1.

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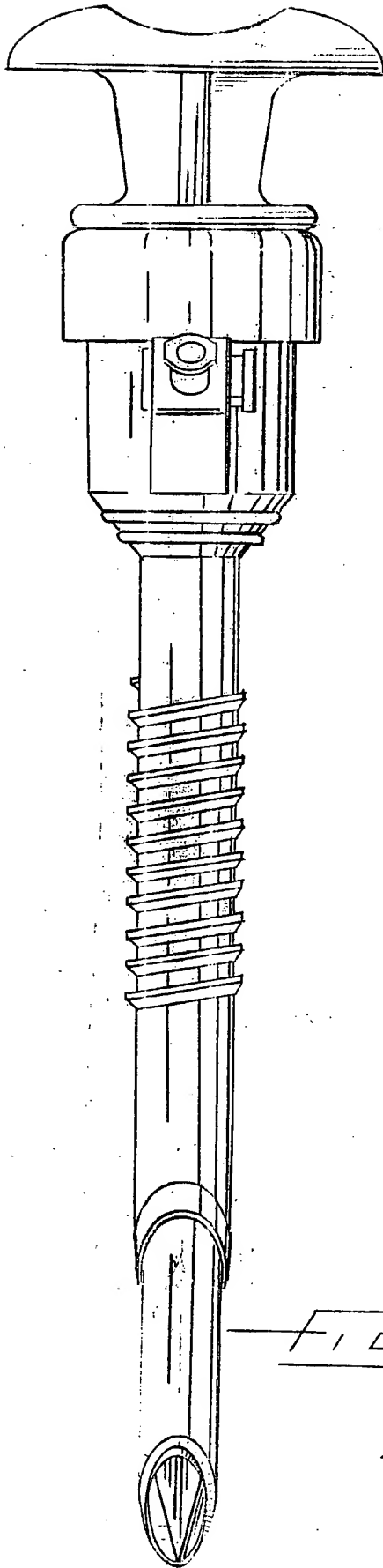


FIG. 2.

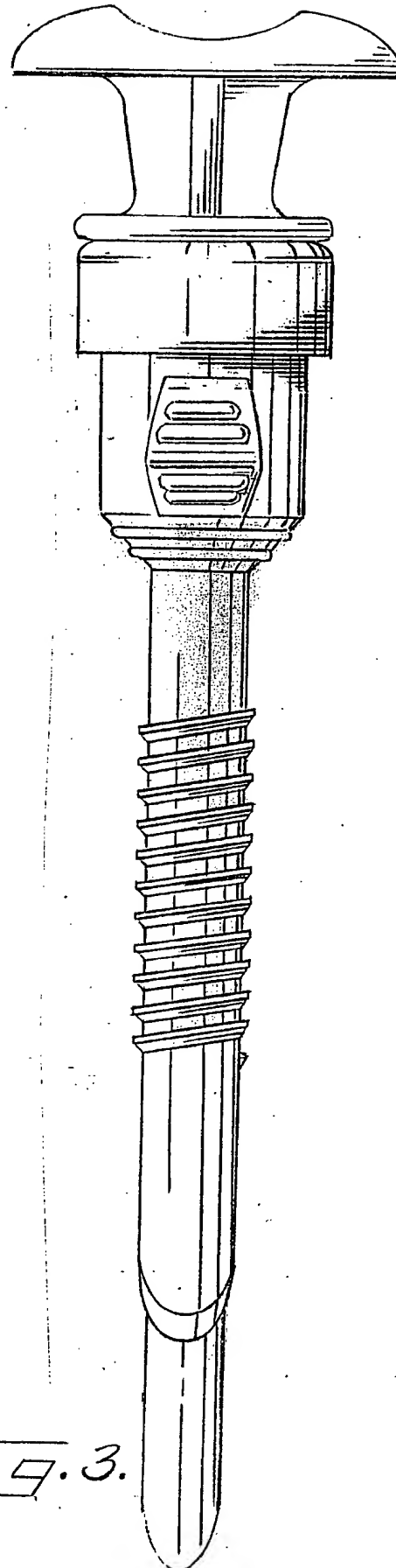


FIG. 3.

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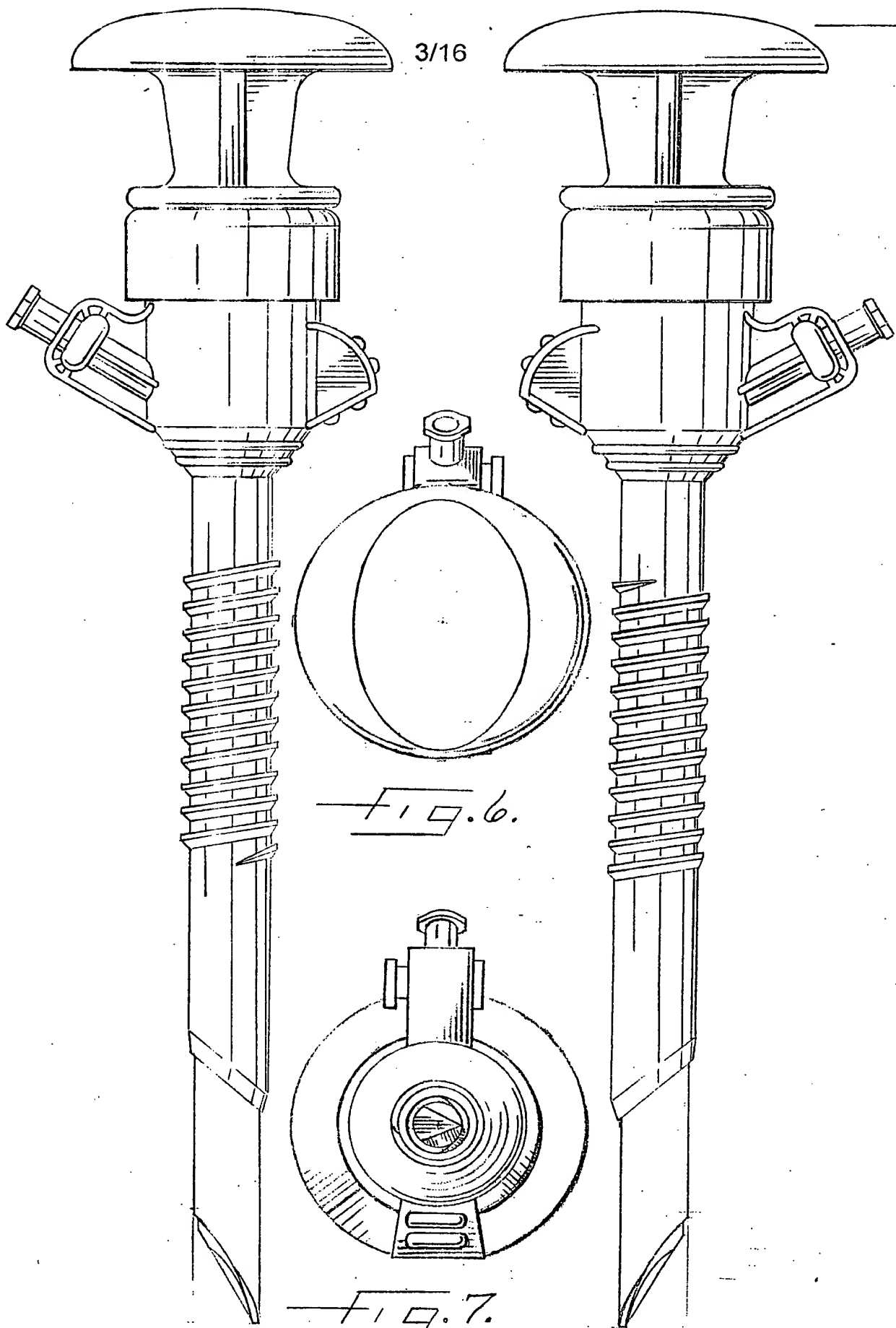


FIG. 6.

FIG. 7.

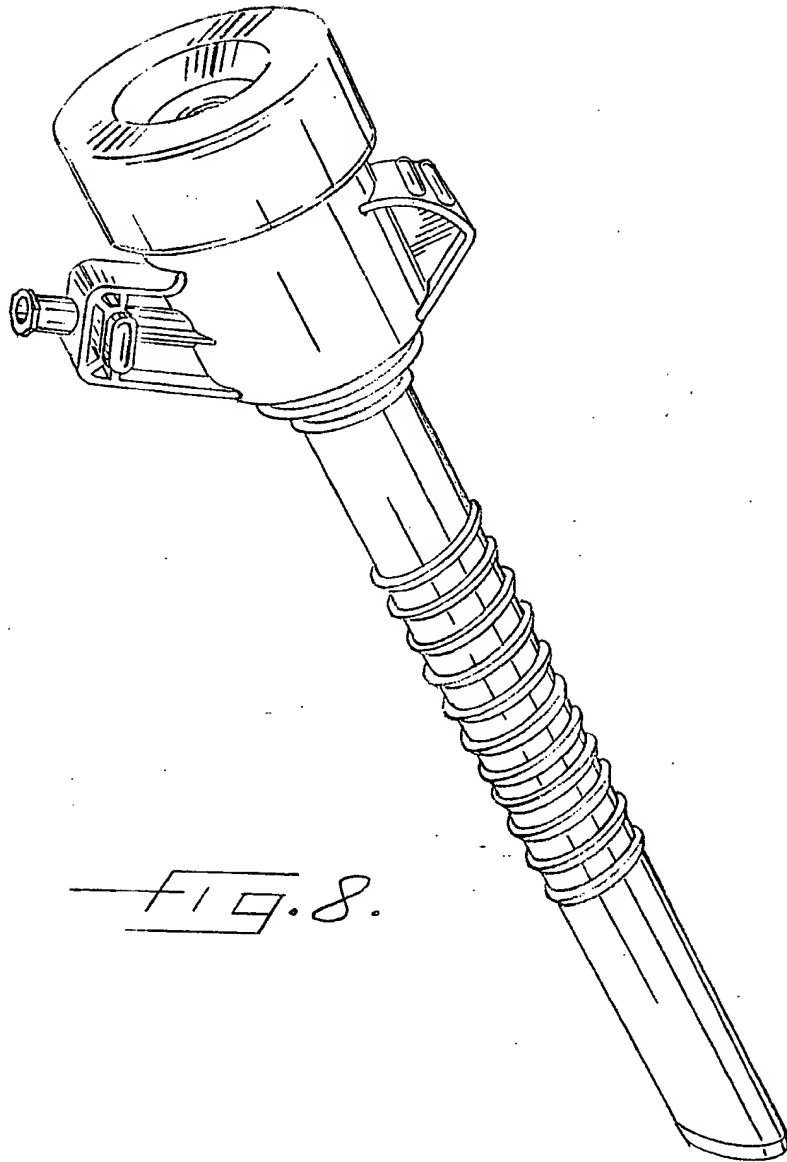
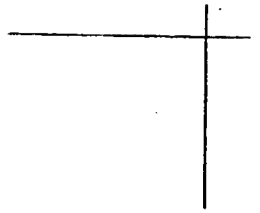


FIG. 8.

FIG. 13.

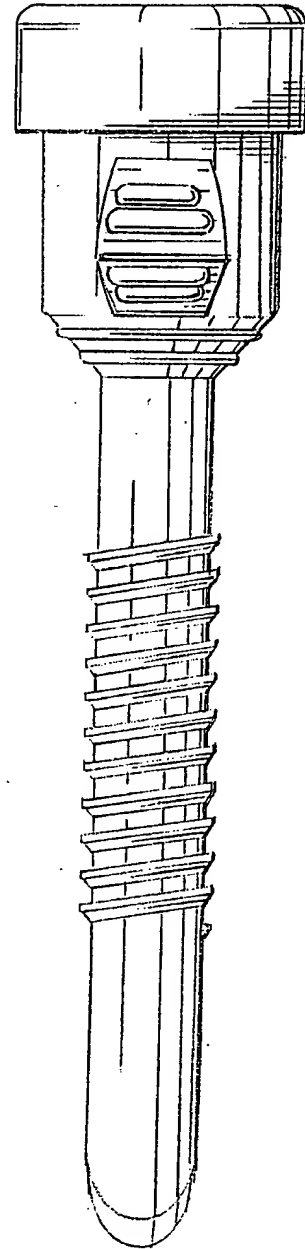
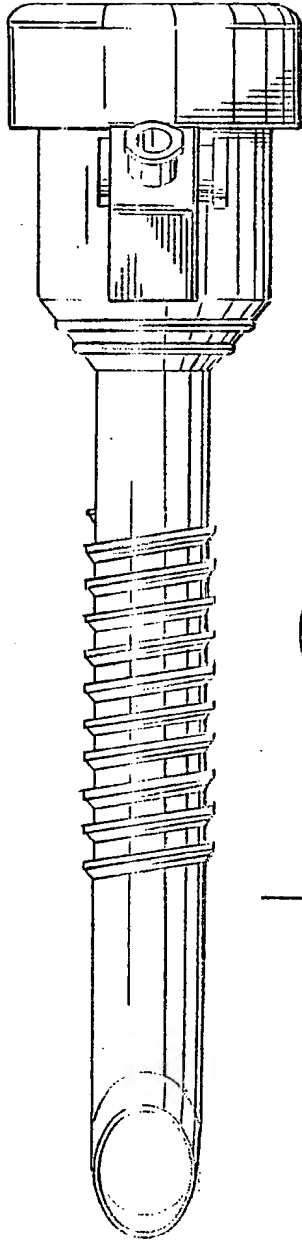
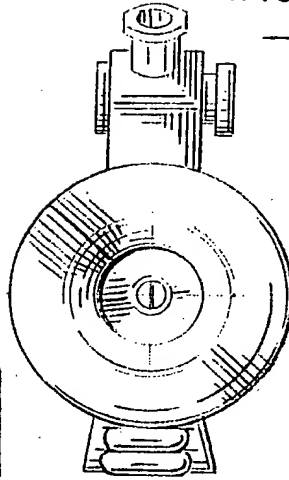


FIG. 14.

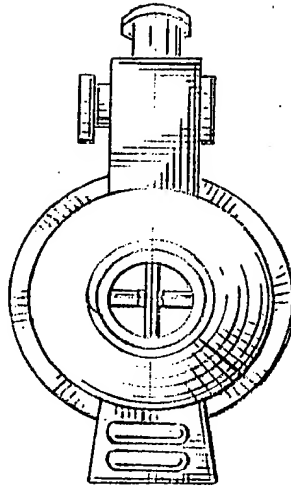


FIG. 9.

FIG. 10.

FIG. 11.

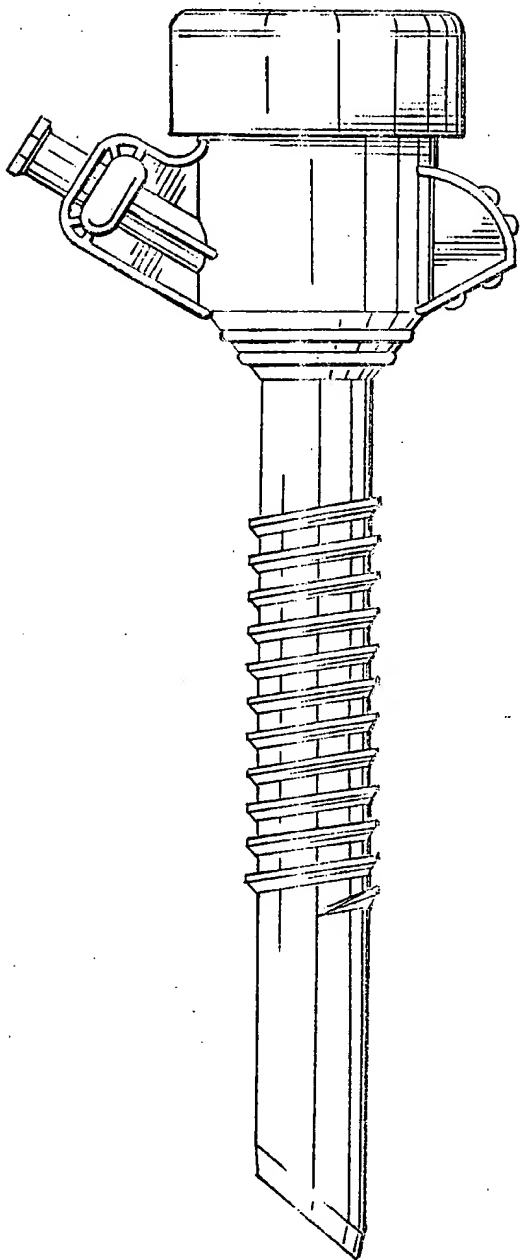
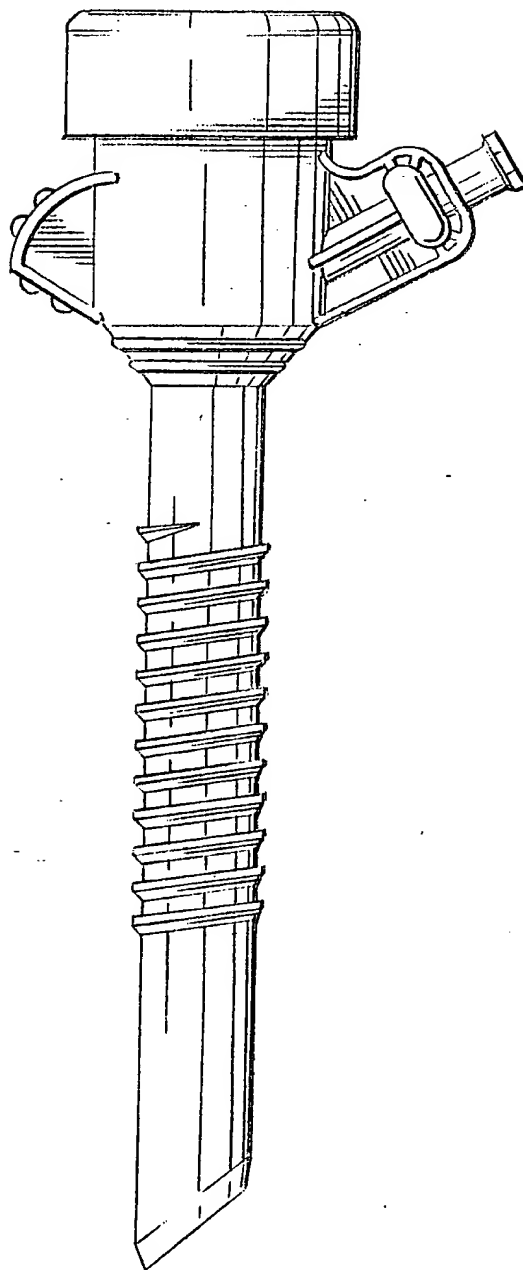
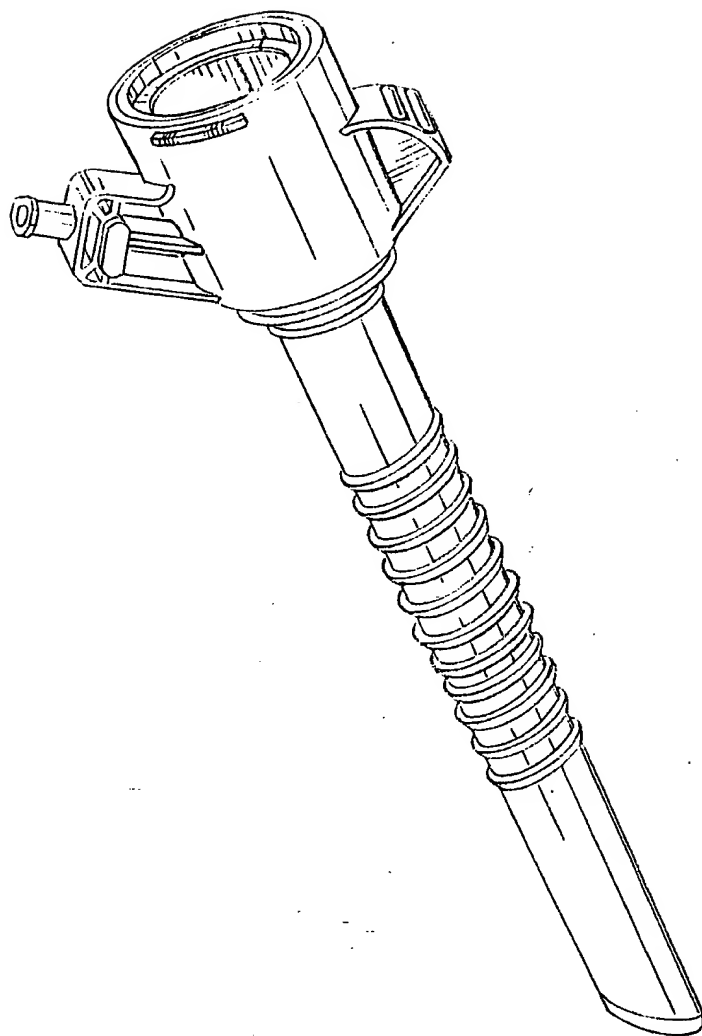


FIG. 12.



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—Fig. 15.

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FIG. 20

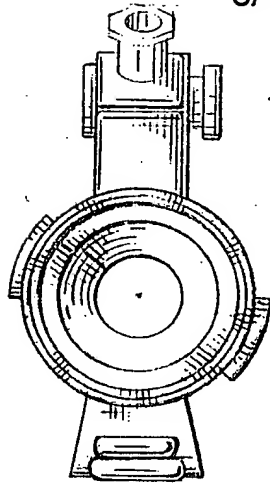


FIG. 26.

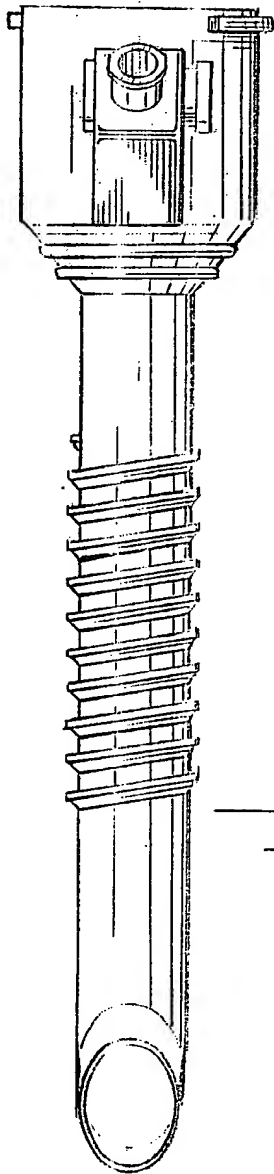


FIG. 27.

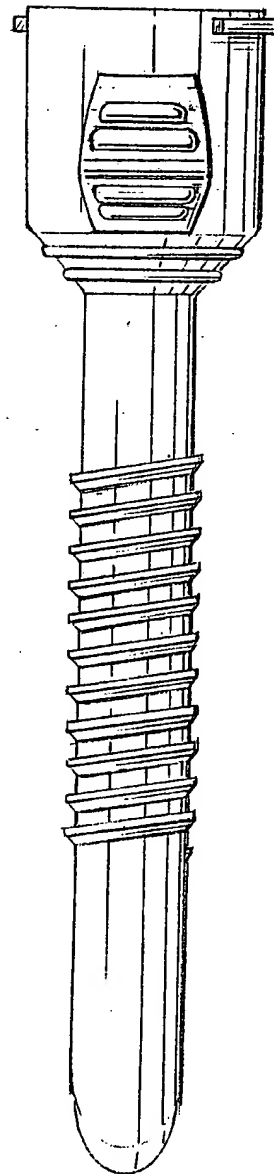
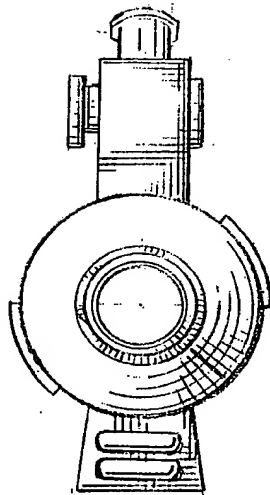


FIG. 21.



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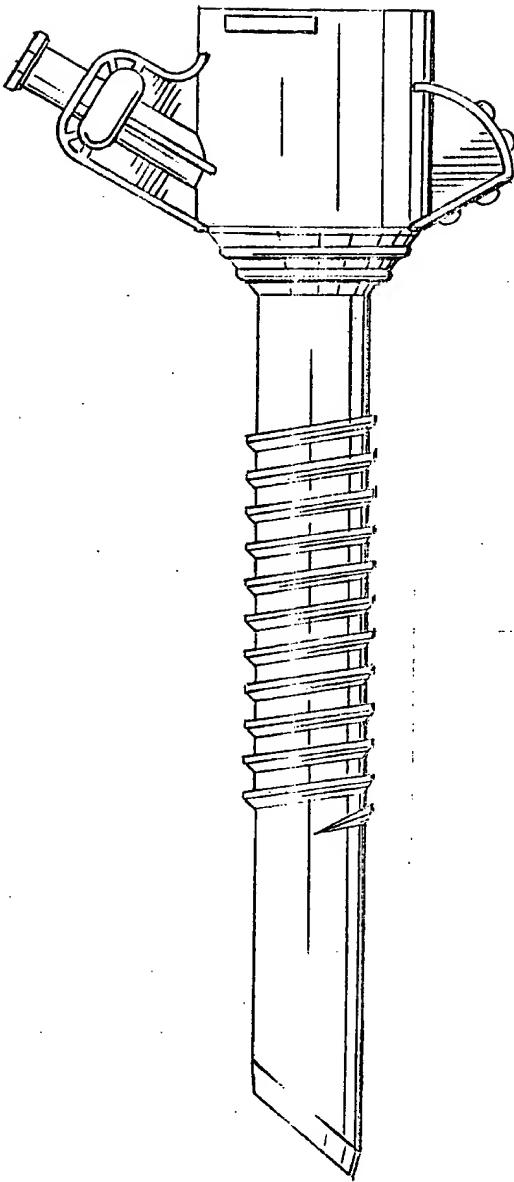


FIG. 28.

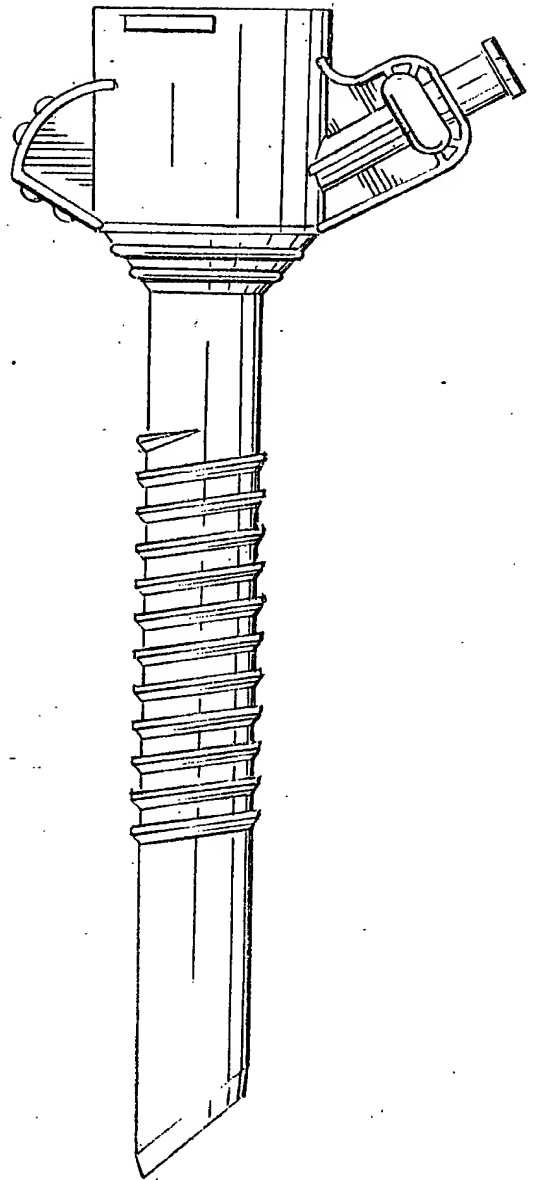


FIG. 29.

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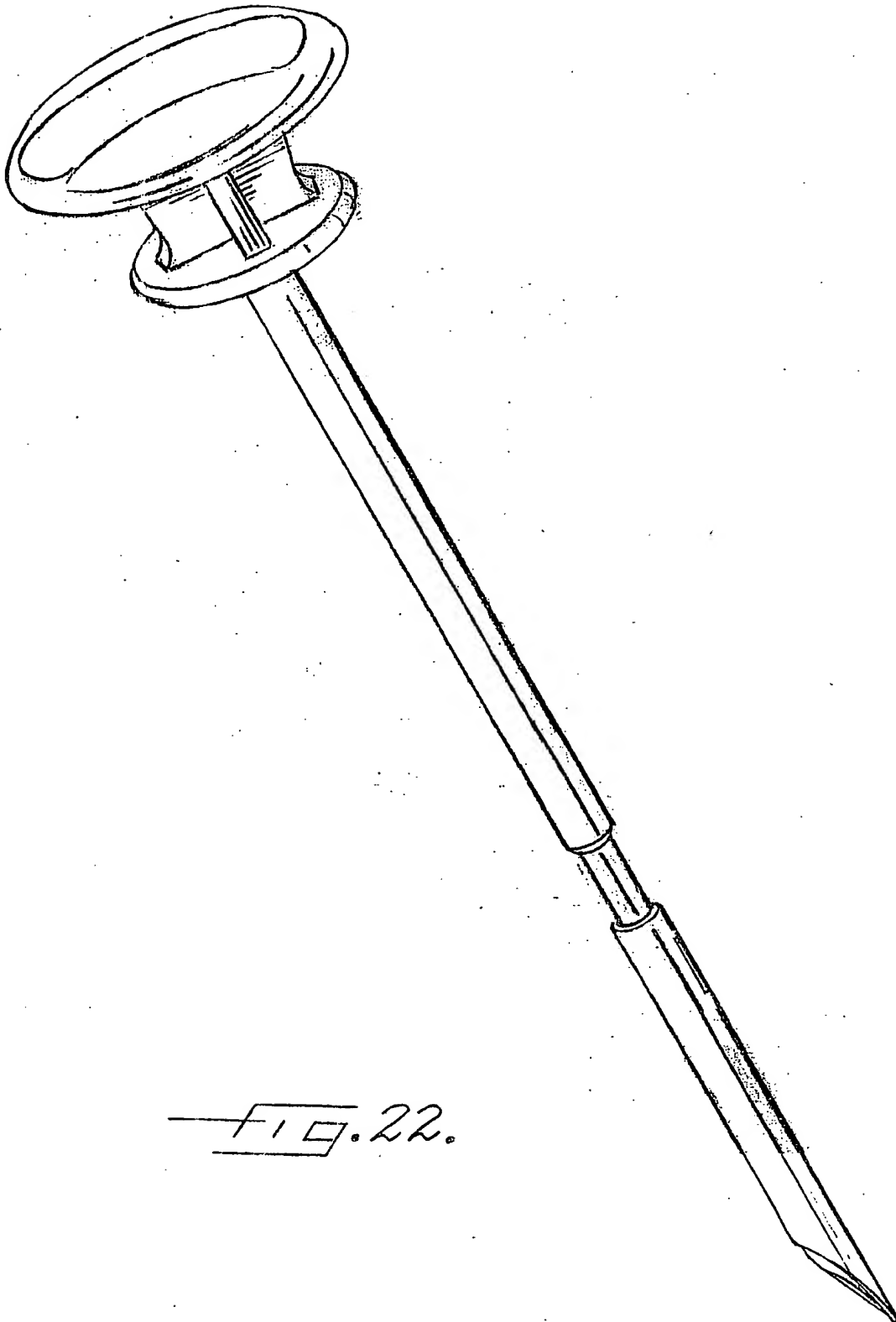


FIG. 22.

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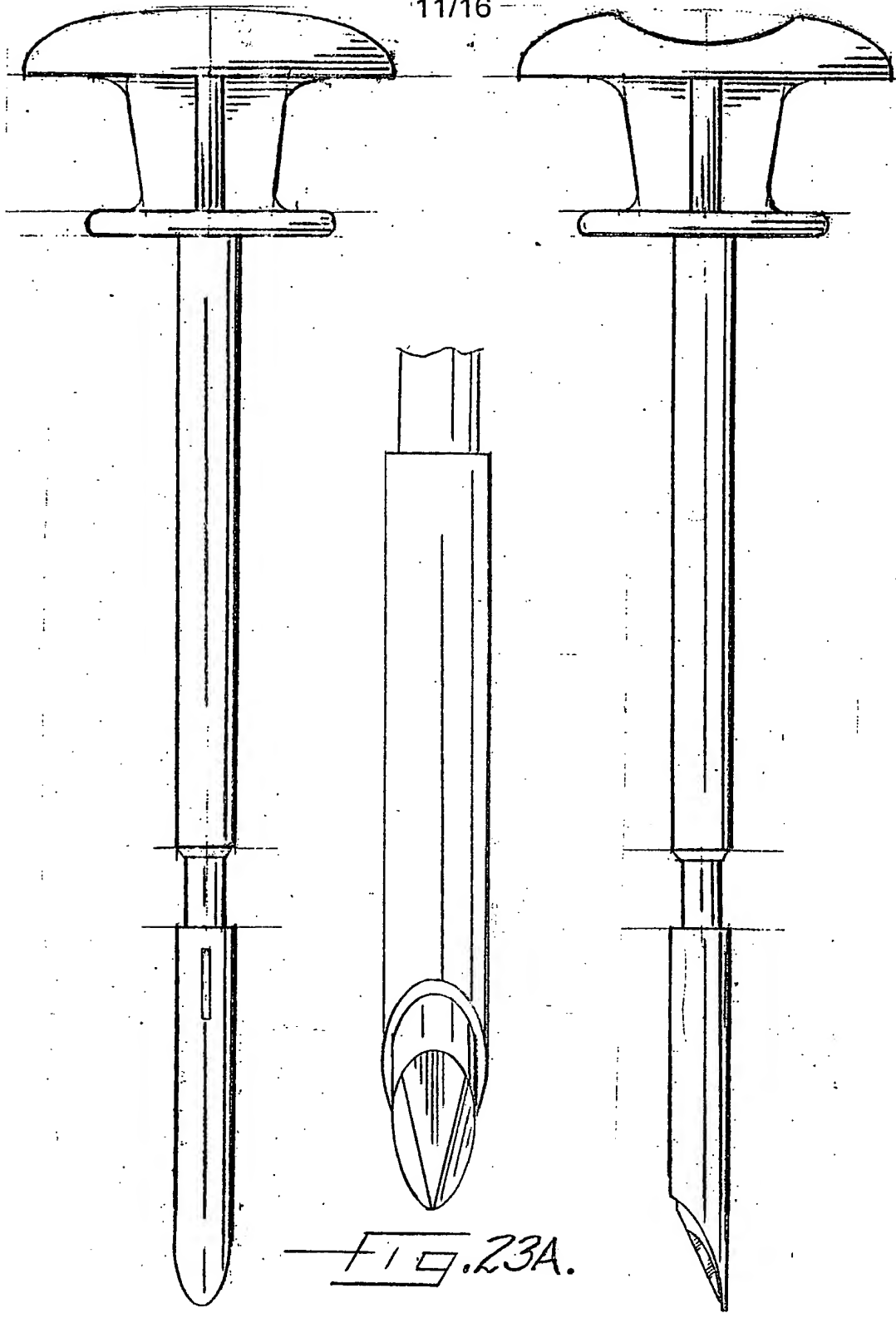


FIG. 23A.

FIG. 23.

FIG. 24.

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FIG. 27.

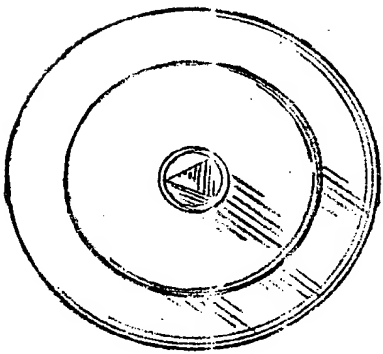
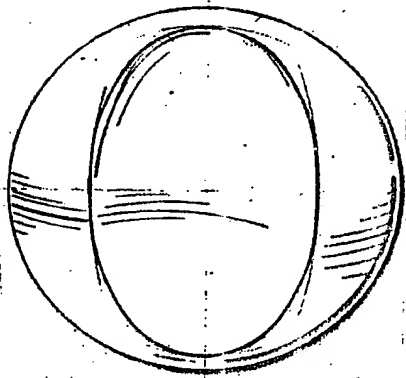


FIG. 28.

FIG. 25.

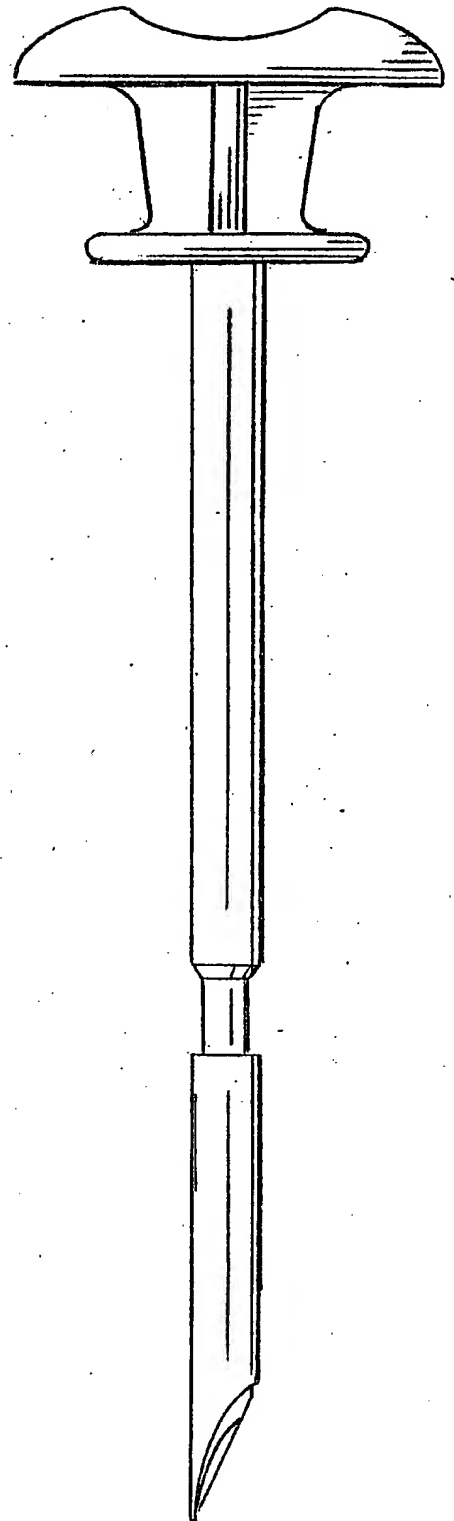
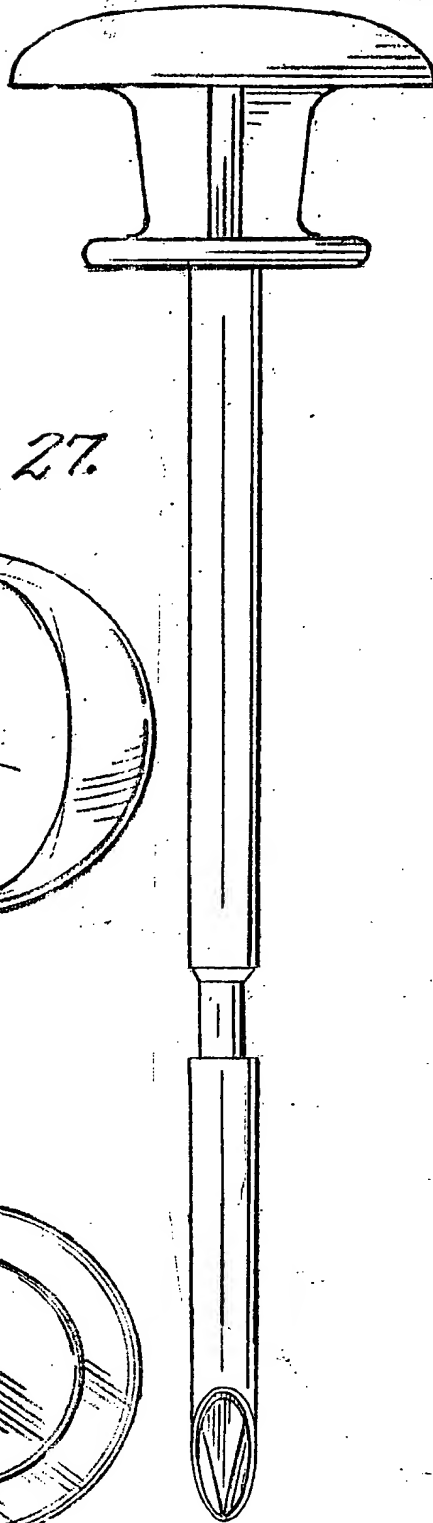


FIG. 26.

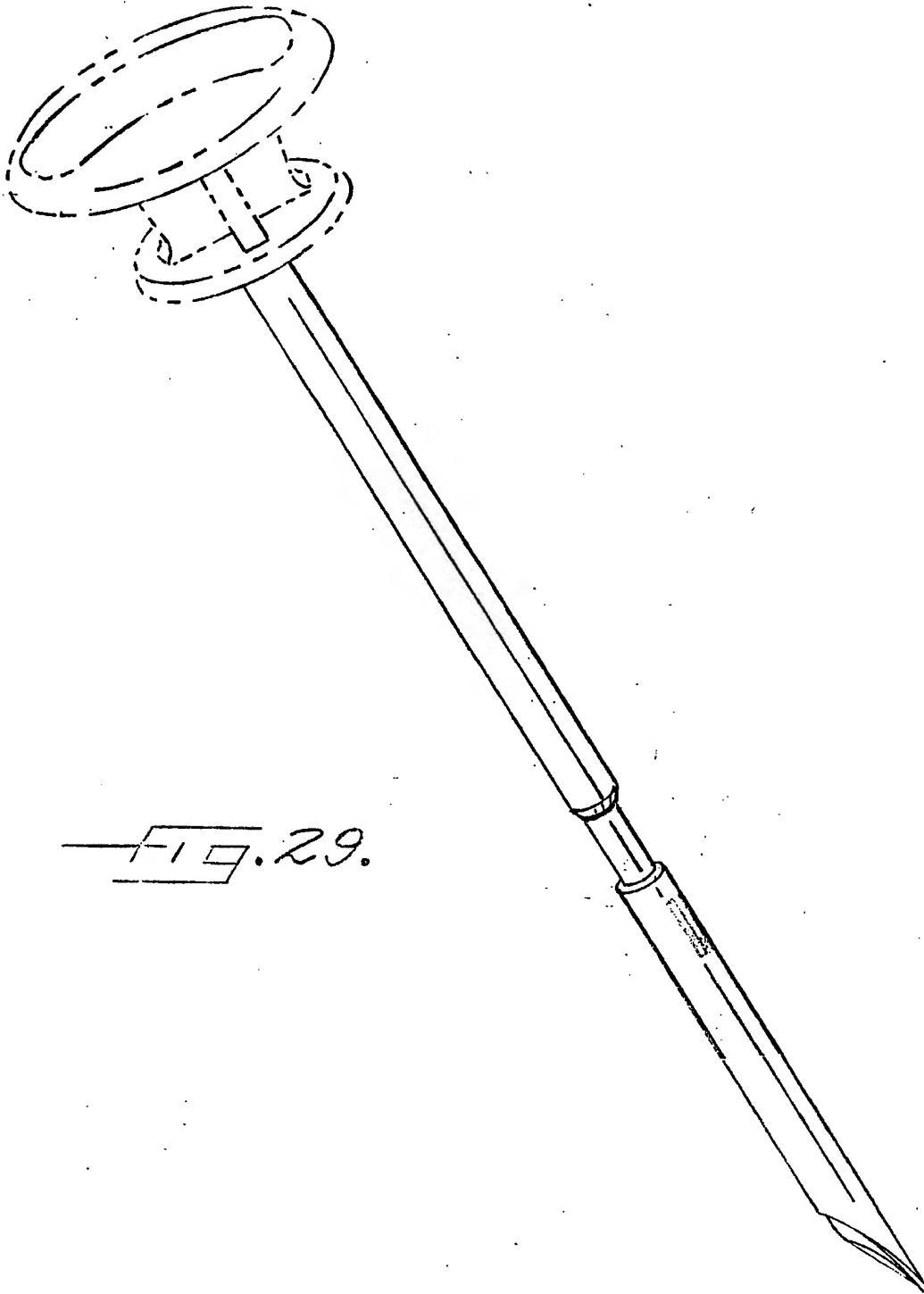


FIG. 29.

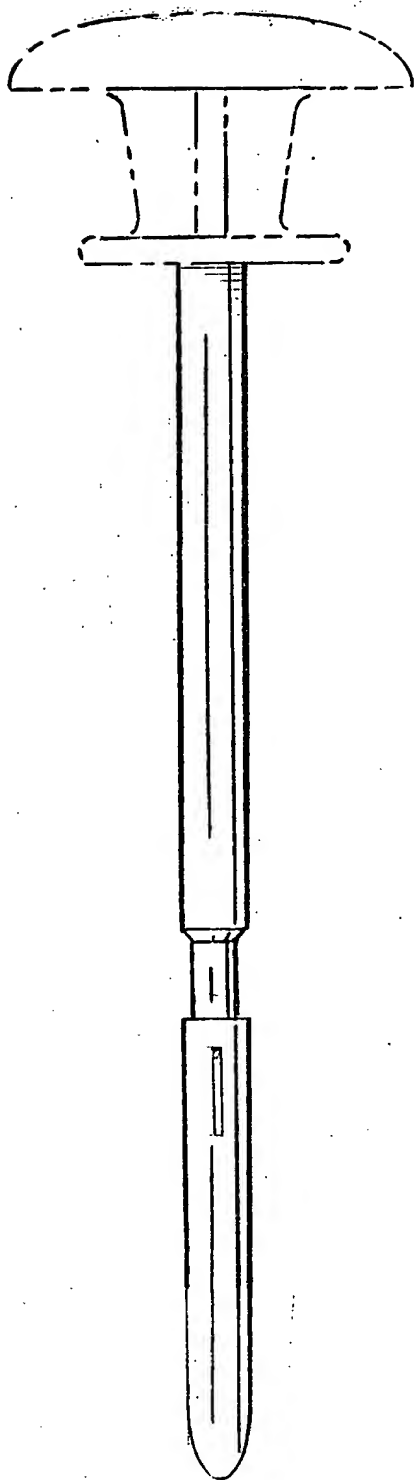


Fig. 30.

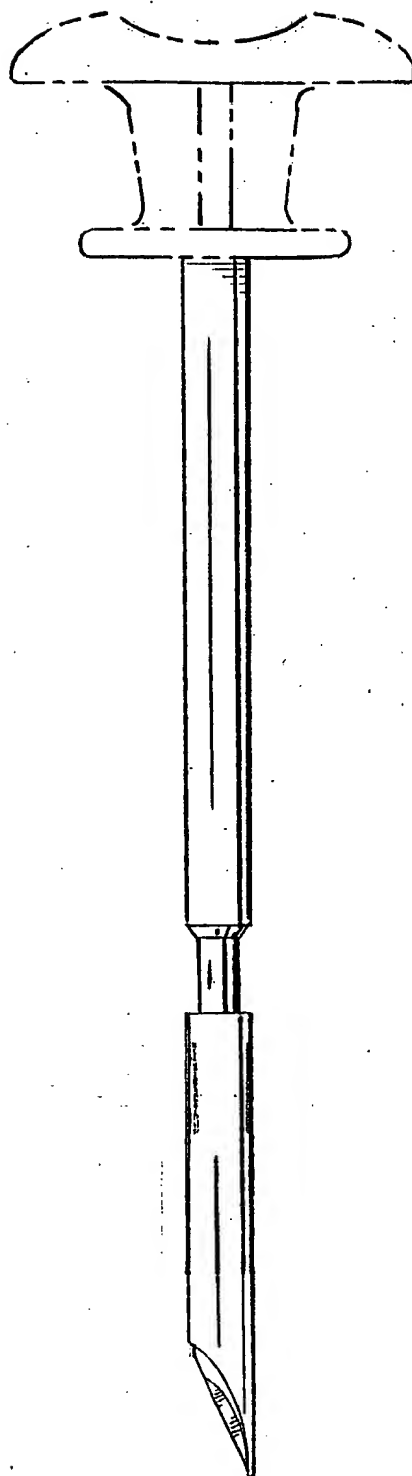


Fig. 31.

FIG. 34.

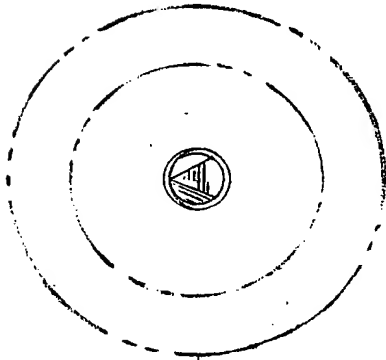
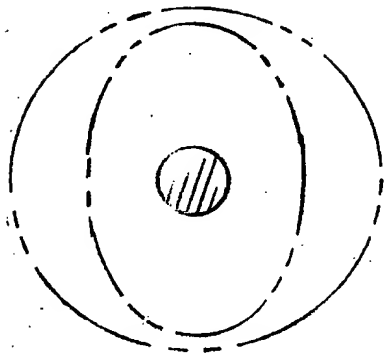


FIG. 35.

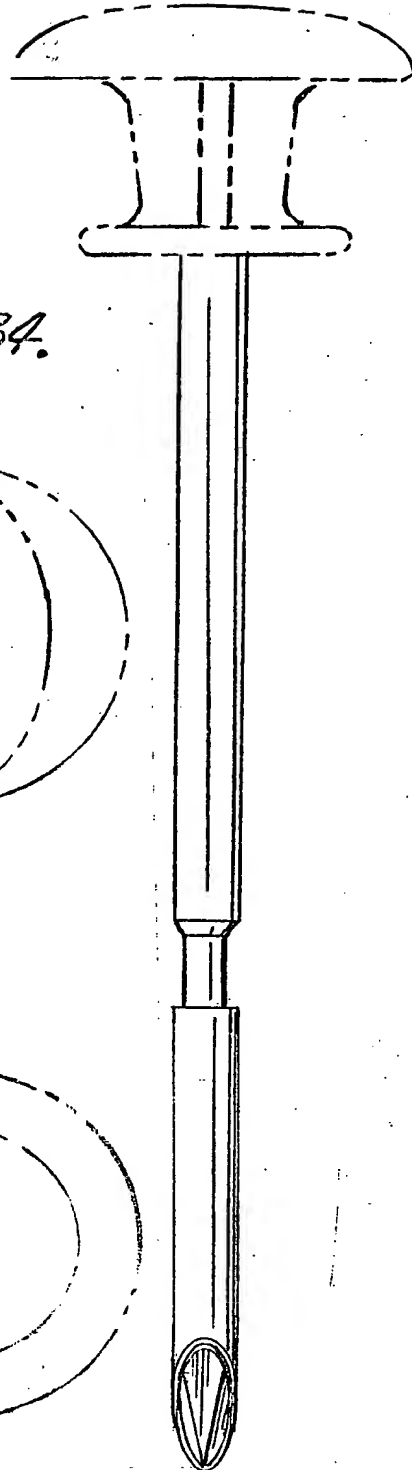


FIG. 32.

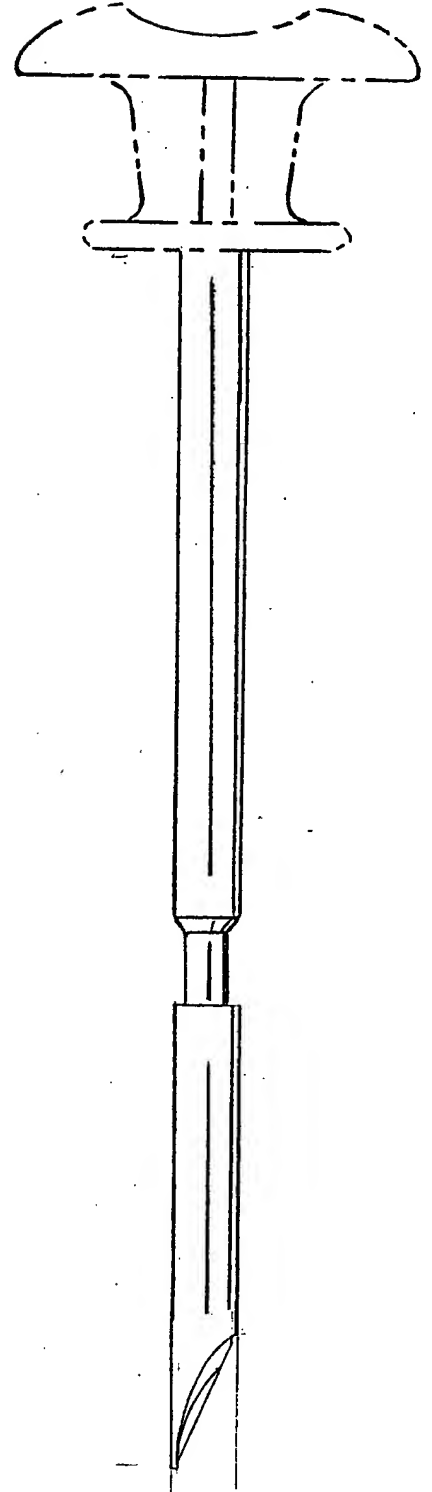


FIG. 33.

FIG. 37.

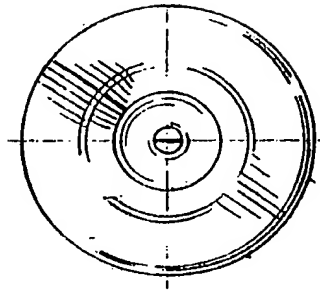


FIG. 38.

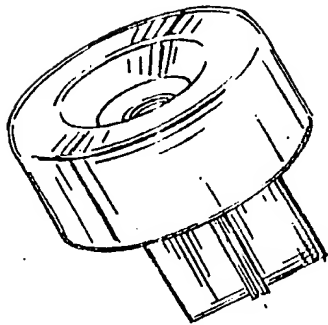
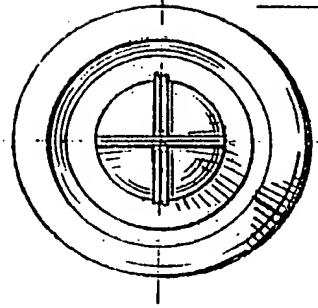


FIG. 36.

FIG. 39.

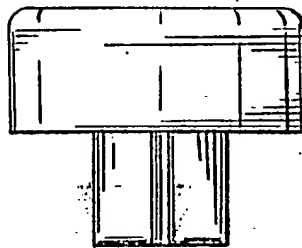
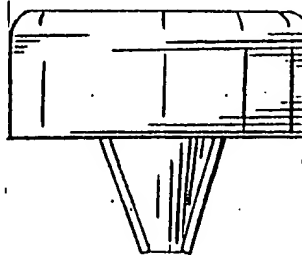


FIG. 40.



DECLARATION AND POWER OF ATTORNEY FOR PATENT
APPLICATION

Attorney Docket No.: 99-P-22061

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: OBTURATOR, VALVE ASSEMBLY, AND CANNULA COMBINATION, the specification of which:

(check one)

_____ is attached hereto

X was filed on January 26, 2000

as Application Serial No. 29/117,520

and was amended on _____
(if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulation, 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the of the application on which priority is claimed:

Prior Foreign Application(s) Priority Claimed

<u> </u>	<u> </u>	<u> </u>	[]	[]
(Number)	(Country)	(Day/Month/Year Filed)	Yes	No
<u> </u>	<u> </u>	<u> </u>	[]	[]
(Number)	(Country)	(Day/Month/Year Filed)	Yes	No
<u> </u>	<u> </u>	<u> </u>	[]	[]
(Number)	(Country)	(Day/Month/Year Filed)	Yes	No

I hereby claim the benefit under Title 35, United States Code, 120, of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

<u> </u>	<u> </u>	<u> </u>
(Appln Serial No.)	(Filing Date)	(Status)
(patented, pending, aban.)		

<u> </u>	<u> </u>	<u> </u>
(Appln Serial No.)	(Filing Date)	(Status)
(patented, pending, aban.)		

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

English Language Declaration

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorneys to prosecute this application and transact all business in the Patent and Trademark Office connected therewith: Jeffrey S. Whittle, Reg. No. 36,382; Christopher F. Regan, Reg. No. 34,906; Herbert L. Allen, Reg. No. 25,322; David L. Sigalow, Reg. No. 36,006; Richard K. Warther, Reg. No. 32,180; Michael W. Taylor, Reg. No. 43,182; Henry Estevez, Reg. No. 37,823; Paul J. Ditmyer, Reg. No. 40,455; Carl M. Napolitano, Reg. No. 37,405; and Jacqueline E. Hartt, Reg. No. 37,845.

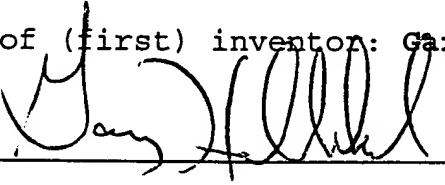
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Orlando, Florida 32802-3791

Direct Telephone Calls to:

Jeffrey S. Whittle
(407) 841-2330

Full name of (first) inventor: Gary Haberland

Inventor's
Signature: 

Date: 3/2/00

Residence: Orlando, Florida

Citizenship: Citizen of United States

Post Office Address: 573 Waterscape Way
Orlando, FL 32828

Full name of second inventor: Sam R. Marchand

Inventor's
Signature: Sam R Marchand

Date: 3/2/00

Residence: Dunedin, Florida

Citizenship: Citizen of United States

Post Office Address: 1170 Robmar Rd.
Dunedin, FL 34698



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

ASSISTANT SECRETARY AND COMMISSIONER
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JUNE 05, 2000

PTAS

ALLEN, DYER, DOPPELT, ET AL.
JEFFREY S. WHITTLE, ESQ.
P.O. BOX 3791
255 SOUTH ORANGE AVE.
ORLANDO, FLORIDA 32802-3791



101316861A

**UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT**

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 03/22/2000

REEL/FRAME: 010673/0414

NUMBER OF PAGES: 4

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

HABERLAND, GARY W.

DOC DATE: 03/02/2000

ASSIGNOR:

MARCHAND, SAM R.

DOC DATE: 03/02/2000

ASSIGNEE:

GENICON, LC
573 WATERSCAPE WAY
ORLANDO, FLORIDA 32828

SERIAL NUMBER: 29117520

FILING DATE: 01/26/2000

PATENT NUMBER:

ISSUE DATE:

KIMBERLY WHITE, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

J-31-92

PATENTS ONLY

Patent & Trademark Office

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Gary W. Haberland

Sam R. Marchand

2. Name and address of receiving party(ies):

Name: GENICON, LC

Address: 573 Waterscape Way
Orlando, Florida 32828

Additional name(s) of conveying party(ies) attached () Yes (X) No

3. Nature of Conveyance:

(X) Assignment

() Merger

() Security Agreement

() Change of Name

() Other

Execution Date: March 2, 2000

Additional name(s) and address(s) attached? () Yes (X) No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent application No.(s)

29/117,520

B. Patent No.(s)

Additional numbers attached? () Yes (X) No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Jeffrey S. Whittle, Esq.

Internal Address: Allen, Dyer, Doppelt,

Milbrath & Gilchrist, P.A.

Street Address: P.O. Box 3791

255 South Orange Ave.

City: Orlando

6. Total number of applications and patents involved: [1]

7. Total fee (37 CFR 3.41).....\$ 40.00

[X] Enclosed

[] Authorized to be charged to deposit account.

8. Deposit Account Number:

01-0484

State: Florida

Zip: 32802-3791

If any additional extension and/or fee is required,
or, if any additional fee for claims is required.

03/31/2000 PDELQATC 00000059 29117520

01 FC:581

(40.00 OP)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Jeffrey S. Whittle

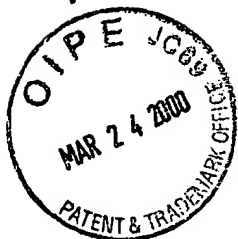
Name of Person Signing

Signature

March 22, 2000

Date

Total number of pages including cover sheet, attachments and document: [4]



A S S I G N M E N T

WHEREAS, **GARY HABERLAND** of Orlando, Florida; and **SAM R. MARCHAND** of Dunedin, Florida; hereinafter referred to as **ASSIGNORS**, have made certain improvements or inventions in **OBTURATOR, VALVE ASSEMBLY, AND CANNULA COMBINATION**, for which **ASSIGNORS** have executed an application for United States Letters Patent filed in the United States Patent and Trademark Office on January 26, 2000 as U.S. Serial No. 29/117,520 ; and

WHEREAS, **Genicon LC**, a Florida limited liability corporation, hereinafter referred to as **ASSIGNEE**, is desirous of acquiring the same;

NOW THEREFORE, This Indenture Witnesseth: That for good and valuable consideration, receipt whereof is hereby acknowledged, said **ASSIGNORS** do hereby sell, assign and transfer to said **ASSIGNEE**, its successors and assigns, all right, title and interest in and to said United States Patent application, the invention or inventions therein shown and described and any improvements on said inventions heretofore or hereafter made, any divisions or continuations of said application, and all patents, United States and foreign, to be granted upon any such application or for the invention or inventions thereof, and any reissues, continuations or extensions of said patents; and said **ASSIGNORS** do hereby authorize and request the Commissioner of Patents to issue all patents on said United States Patent applications or for the invention or inventions hereof, in accordance with this assignment.

And said **ASSIGNORS** for said consideration hereby covenants and agrees that said **ASSIGNORS** are the owners of the full title herein conveyed and has the right to convey the same, and agrees that said **ASSIGNORS** will communicate to said **ASSIGNEE**

Exhibit F

NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is entered into this 2nd day of April, 1998, by and between East Coast Endoscopy, L.L.C. and/or GeniConTM, L.L.C. (hereinafter referred to as "ECE" and "GeniConTM" with its principal place of business located at 573 Waterscape Way, Orlando, Florida 32828 and Blacktiger Design, a corporation (hereinafter referred to as "Second Party"), with a principal place of business at 1122 Park Lane St. Orlando, FL 32803.

WHEREAS, ECE and/or GeniCon is in possession of certain information which it considers to be confidential, proprietary, and valuable business and property rights concerning techniques for medical devices; and

WHEREAS, it is essential to ECE and/or GeniCon that the information remain confidential and that it not be disclosed to any third party; and

WHEREAS, Second Party is desirous of having the information disclosed and presented to Second Party and agrees that such information should be presumed confidential and trade secret protected.

NOW THEREFORE, in consideration of the foregoing, of the mutual promises made herein, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree and covenant as follows:

Confidential Information

1 "Confidential Information," as utilized herein, shall mean and encompass all information, facts or knowledge directly or indirectly presented, disclosed or made available to Second Party, whether in oral or written form, as a consequence of or through ECE and/or GeniCon's presentation and disclosure of the techniques for medical devices, the related patents in prosecution and all associated information or knowhow and all information reasonably related to the aforesaid products or technology or patents.

2 The parties agree that the Confidential Information constitutes a trade secret of value owned by ECE and/or GeniCon for use or in use by ECE and/or GeniCon which is of advantage to it, or which provides advantage to it over those who do not know such Confidential Information and is otherwise deemed confidential, proprietary information pursuant to applicable Florida law, including, but not limited to Florida Statute §812.081, and Florida Statute Chapter 688. Second Party acknowledges that the Confidential Information is a valuable, special and unique asset and property right exclusively owned by ECE and/or GeniCon.

3 Should Second Party, at the time of disclosure, be of the opinion that the Confidential Information, or any part thereof, is generally known to the industry or was previously known by Second Party independent of ECE and/or GeniCon's disclosure, Second Party shall provide ECE and/or GeniCon with adequate and sufficient documentation maintained in the ordinary course of Second Party's business which substantiates that such an opinion or claim is accurate and correct. Second Party shall provide such documentation to ECE and/or GeniCon within five (5) days after ECE and/or GeniCon's initial disclosure and presentation, failing which Second Party shall be forever barred from raising such a claim or opinion at any time in the future.

4 In addition to matters already known to Second Party at the time of disclosure as described in Paragraph 3 above, this Agreement of Confidentiality shall not apply to any such information which

- a Is or becomes through no act of omission or commission by Second Party a part of the public domain;
- b Is subsequently disclosed to Second Party by an independent third party who holds such information free of any secrecy obligation;
- c Is required to be disclosed by a court of competent jurisdiction (as described in Paragraph 5 above); or

GeniConTM

- d. Is independently discovered by employees or agents of Second Party having no access to the Confidential Information; Provided that ECE and/or GeniCon is given written notice of Second Party's claim of independent discovery and the facts and circumstances surrounding same.

Non-disclosure and Confidentiality

5. Second Party agrees to consider and treat the Confidential Information or any portion thereof as confidential, valuable proprietary business and property rights of ECE and/or GeniCon and Second Party shall not directly or indirectly use, utilize, exploit for any person's or entity's benefit, or disseminate, disclose, publish or otherwise make available the Confidential Information or any portion thereof to any person, business, corporation, agent, officer, employee, partnership, association or other entity not a party to this Agreement.

6. Should Second Party feel it is necessary to so disclose the Confidential Information or any portion thereof to any person or entity not a party to this Agreement, Second Party shall first obtain (a) ECE and/or GeniCon's written consent thereto which shall not be unreasonably withheld or delayed, and (b) person's or entity's signature to this Agreement which shall represent their intent to be bound by all terms and restrictions set forth herein.

Return and Tender of Confidential Documents

7. Second Party agrees to return, deliver and tender to ECE and/or GeniCon, at the above address, all samples, product prototypes, documents, records, notes, notebooks and other writings reflecting or relating to any and all Confidential Information including all copies and portions thereof in Second Party's possession, custody or control, within five (5) days from the date ECE and/or GeniCon furnishes Second Party written notice of such a request. In that event, if at any time in the future Second Party determines that it possesses additional Confidential Information in any written form, it shall immediately return same to ECE and/or GeniCon at the above address all such writings, including all copies and portions thereof.

Injunction and Equitable Relief

8. Second Party agrees that the restrictions set forth in this Agreement are just and reasonable. In the event that Second Party violates, breaches or threatens to breach any of the covenants or restrictions contained herein, Second Party acknowledges that:

- a. ECE and/or GeniCon will suffer immediate, irreparable, actual and substantial harm resulting in ECE and/or GeniCon's lost business, business interruption, administrative expenses and lost profits, and
- b. it may be impossible to ascertain the amount of such damages with any reasonable degree of accuracy.

9. In the event that Second Party violates or breaches any of the restrictions or covenants contained herein or threatens such a breach or violation, ECE and/or GeniCon shall be entitled to obtain immediate, temporary and permanent injunction and other equitable relief to enforce any and all of the provisions set forth herein in a court of competent jurisdiction. In addition to or in lieu of the above, ECE and/or GeniCon may, in its sole discretion, pursue any and all other remedies available to it for such violation, breach or threatened breach, including recovery of compensatory damages.

Mutuality of Obligations and Remedies

10. The parties agree that they are mutually obligated under this Agreement to full and faithful performance hereunder. It is further agreed that there exists a mutuality of remedies under this Agreement.

Attorney's Fees and Costs

11 Should any dispute or legal action arise out of this Agreement or the obligations stated herein or is based upon this Agreement or any of its provisions, the prevailing party in any dispute or action shall be entitled to recover from its reasonable attorney's fees, expenses and costs incurred in connection with such a dispute or action, including attorney's fees and costs through all appeals.

Fully Negotiated Agreement

12 Second Party agrees that this Agreement has been fully negotiated in an arm's length transaction and that it was not been coerced in any manner to execute this Agreement. Second Party further acknowledges that Second Party has had the opportunity to employ legal counsel and seek advice from such counsel with respect to this Agreement.

Severability

13 If any provision of this Agreement is declared or deemed invalid, unenforceable or unlawful by any tribunal or court of competent jurisdiction, such provision shall be deemed automatically modified to conform to the requirements of validity as declared at the time, and as so modified, shall be deemed a provision of this Agreement although originally included herein. In the event that the provision invalidated is of such a nature that it cannot be so modified, the provision shall be deemed deleted and withdrawn from this Agreement as though the provision had never been included herein. In either event, the remaining provisions of this Agreement shall remain in full force and effect.

Venue and Governing Law

14 This Agreement shall be governed by the laws of the State of Florida where it is deemed made and executed, and the parties hereto agree that venue shall be in Orange County, Florida.

Modification and Entire Agreement

15 This Agreement may only be modified, altered or amended, in whole or in part, by a written instrument setting forth such changes and signed by Second Party and ECH and/or GeniCom. At no point shall any party to this agreement contend in any court or under any other circumstance that this agreement was orally modified. This Agreement constitutes the entire Agreement and understanding between the parties and all oral discussions between the parties are merged herein.

Notices

16 All notices to parties to this Agreement shall be by certified mail, return receipt requested, at the addresses listed above.

Headings

17 All headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

Binding Effect

18 This Agreement shall be binding upon the parties' heirs, assigns, personal representatives, executors and successors.

Term and Duration of Agreement

19 Unless otherwise expressly stated, the term of this Agreement, and the duration of this Agreement shall remain in effect shall be five (5) years from the date hereof.

Waiver

GeniCom

20. A waiver of any breach or violation of this Agreement shall not be construed as a continuing waiver or consent to any subsequent breach or violation by either party herein.

Limited License to Use

21. Second Party shall not acquire any intellectual property rights under this Agreement except the limited right to use set out above. Second Party acknowledges that, as between ECE and/or GeniCon and Second Party, the Confidential Information and all related copyrights and other intellectual property rights are (and at times will be) the property of ECE and/or GeniCon, even if suggestions, comments, and/or ideas made by Second Party are incorporated into the Confidential Information or related materials during the period of this Agreement. Second Party hereby Assigns any such rights it may have in ECE and/or GeniCon's concepts or devices.

Time is of the Essence

22. The parties agree that all time periods set forth herein are of the essence to this Agreement and may not be waived or modified except in strict accordance with the terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first above written.

(ECE AND/OR GENICON)

By: 
Gary W. Haberland

Its Manager of Operations

By: 

Its 
Principal

GeniCon™

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